

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARCUS GREEN,

Defendant.

4:23-CR-3055

ORDER

This matter is before the Court on the defendant's objection ([filing 49](#)) to the Magistrate Judge's Findings and Recommendation ([filing 43](#)) recommending that the defendant's motion to suppress ([filing 29](#)) be denied. The Court has conducted a de novo review of the record pursuant to [28 U.S.C. § 636\(b\)\(1\)](#)—in particular, the Court has carefully reviewed the recording of the traffic stop taken from Officer Pulec's cruiser. Ex. 2.

On its de novo review, the Court agrees with the Magistrate Judge's findings and recommendation. Specifically, the Court disagrees with the defendant's argument regarding Investigator Villamonte's testimony:

The Magistrate credited Investigator Villamonte over those who were driving in front of him encountering the traffic light first. Investigator Villamonte believes he stopped at the light prior to Mr. Green going through it; he said he sped up when he entered the turn lane. It makes no sense that his car would hit the intersection first when he was behind Mr. Green, unless he was traveling markedly faster. It also makes no sense that Investigator

Villamonte sped up when he entered the turning lane. One would do just the opposite if the light was about to change to red.

[Filing 49 at 8](#). Contrary to the defendant's argument, the video seems clear on those points—Villamonte's vehicle was behind Green's, but entered the turn lane and sped slightly ahead of Green's just as the traffic light was changing. From the Court's review of the video, it supports Villamonte's testimony that he arrived at the intersection slightly ahead of Green and that Green passed him to cross the intersection just as the light was turning red. *See ex. 2.* The defendant's argument to the contrary is without merit. Accordingly,

IT IS ORDERED:

1. The defendant's objection ([filing 49](#)) is overruled.
2. The Magistrate Judge's Findings and Recommendation ([filing 43](#)) are adopted.
3. The defendant's motion to suppress ([filing 29](#)) is denied.

Dated this 20th day of November, 2023.

BY THE COURT:

  
John M. Gerrard  
Senior United States District Judge